IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
August 15, 2007 Session

JASON M. CRIPPEN v. CATHARYN CAMPBELL

Appeal from the Circuit Court for Knox County
No. 1-486-06 Dale C. Workman, Judge

No. E2007-00309-COA-R3-CV - FILED SEPTEMBER 24, 2007

When the parties' planned marriage did not materialize, Jason M. Crippen ("the Donor"), sued his former fiancee, Catharyn Campbell ("the Donee"), seeking the return of the engagement ring. The trial court held that the passing of the ring was a completed gift upon the transfer of the ring to the Donee. The court granted the Donee summary judgment. The Donor appeals. We reverse and grant the Donor summary judgment on his complaint for return of the ring.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Reversed; Summary Judgment Granted to Appellant; Case Remanded

CHARLES D. SUSANO, JR., J., delivered the opinion of the court, in which HERCHEL P. FRANKS, P.J., and, SHARON G. LEE, J., joined.

Adam M. Priest, Knoxville, Tennessee, for the appellant, Jason M. Crippen.

James K. Scott, Knoxville, Tennessee, for the appellee, Catharyn Campbell.

OPINION

I.

The facts are not in dispute. The parties were involved in a romantic relationship for many months. Their relationship culminated in an engagement when, in the words of the Donor's statement of the facts,[1] "[o]n December 25, 2005, the [Donor] intentionally placed an engagement ring on the [Donee's] finger and simultaneously proposed marriage to her." The Donee accepted the Donor's proposal "and the parties were engaged to be married." The engagement, however, did not

[1] In her brief, the Donee states that she agrees with the Donor's statement of the facts.

last.[2] The parties are no longer involved romantically and neither has a present intent to marry the other. When the Donee rejected the Donor's request for the return of the ring, the latter filed an action to recover personal property.

Both of the parties filed a motion for summary judgment. The trial court granted the Donee's motion, noting, with respect to the engagement ring,

> once she receives and she accepts, it becomes a final gift and nothing else that happens thereafter changes it. I think that engagement rings are gifts.

This appeal followed.

II.

The Donor presents one issue for our consideration. As stated in his brief, the question is as follows:

> Did the trial court err in ruling that an engagement ring is a completed gift immediately upon the man's delivery of the ring to the woman?

The Donor argues that the transfer of an engagement ring is a conditional gift – one given in contemplation of marriage. He asserts that, if and when the condition, *i.e.*, the marriage, does not occur, the gift fails and the donor is entitled to the return of the ring. The Donee, not surprisingly, agrees with the trial court that the transfer of the ring to the Donee was complete upon delivery. The parties agree that the facts are not in dispute and that this case is ripe for summary judgment. Our research reveals no Tennessee appellate court decisions with precedential value addressing the Donor's issue. As far as we can tell, we are dealing with a question of first impression in this state. However, our review of the cases from other jurisdictions persuades us that the clear weight of authority in this country is contrary to the trial court's ruling in this case.

III.

The only citable authority in Tennessee addressing the legal status of an engagement ring is a federal bankruptcy case, ***In re Berry***, 1 B.R. 127 (Bankr. E.D. Tenn. 1979). That case, however, was not a dispute between formerly engaged parties, but rather a case in which a creditor sought to take possession of an engagement ring that the debtor had given to his fiancee, who later became his wife. Although the context and issues in ***Berry*** are very different from those presently before us, ***Berry*** is arguably relevant to this case because of that court's succinct statement of the following rule: "Gifts given in contemplation of marriage are given on condition that the marriage ensue. The condition having been met, as in this case, the gifts become absolute." ***Id.*** at 130 (citation omitted).

[2] The record does not reflect any details regarding the parties' breakup.

While the ruling in ***Berry*** is helpful in resolving the issue before us, it is not based upon facts similar to those in the instant case. As previously noted, there are no citable Tennessee appellate court decisions on point.

Berry's statement is consistent with the great weight of authority in other jurisdictions. *See* Elaine Marie Tomko, Annotation, *Rights in respect of engagement and courtship presents when marriage does not ensue*, 44 A.L.R.5th 1 (1996); *see also* 38 Am. Jur. 2d *Gifts* § 75 (2007). As the Kansas Supreme Court opined,

> [i]n the absence of a contrary expression of intent, it is logical that engagement rings should be considered, by their very nature, conditional gifts given in contemplation of marriage. Once it is established the ring is an engagement ring, it is a conditional gift.

Heiman v. Parrish, 942 P.2d 631, 634 (Kan. 1997). The Indiana Court of Appeals explained why this is so:

> In our society, an engagement ring – i.e., a gift incidental to an engagement – is the symbol and token of a couple's agreement to marry. As such, marriage is an implied condition of the transfer of title to the ring and, thus, the gift does not become absolute until the marriage occurs. Put another way, marriage is a condition precedent before ownership of an engagement ring vests in the donee.

Fowler v. Perry, 830 N.E.2d 97, 105 (Ind. Ct. App. 2005) (citation omitted). The Wisconsin Court of Appeals agreed:

> We find the conditional gift theory particularly appropriate when the contested property is an engagement ring. The inherent symbolism of this gift forecloses the need to establish an express condition that marriage will ensue.

Brown v. Thomas, 379 N.W.2d 868, 872 (Wis. Ct. App. 1985) (footnote omitted). It has been noted that it would be "unduly harsh and unnecessary" for courts to require the person proposing marriage to specify in advance, on bended knee, that he wants the ring back if the marriage does not occur. ***Fierro v. Hoel***, 465 N.W.2d 669, 671 (Iowa Ct. App. 1990). "At the moment of a marriage proposal, couples are least inclined to utter any disparaging comments concerning the longevity of the relationship." ***Id.*** Rather than imposing such an unrealistic requirement, courts have almost universally held that "an engagement ring given in contemplation of marriage is an *impliedly* conditional gift"; it is a completed gift only upon marriage. ***Id.*** at 672 (emphasis added). It therefore necessarily follows that "[i]f the engagement is broken off the ring should be returned since it is a conditional gift." ***Albanese v. Indelicato***, 51 A.2d 110, 110 (N.J. D. Ct. 1947). "When the engagement fails, the symbol of its existence should be returned to him who gave it." ***Beck v.***

Cohen, 262 N.Y.S. 716, 718 (N.Y. App. Div. 1933). *See also* ***In re Stoltz***, 283 B.R. 842 (Bankr. D. Md. 2002); ***Meyer v. Mitnick***, 625 N.W.2d 136 (Mich. Ct. App. 2001); ***Busse v. Lambert***, 773 So. 2d 182 (La. Ct. App. 2000); ***Lindh v. Surman***, 702 A.2d 560 (Pa. Super. Ct. 1997); ***Aronow v. Silver***, 538 A.2d 851 (N.J. Super. Ct. Ch. Div. 1987); ***Lyle v. Durham***, 473 N.E.2d 1216 (Ohio Ct. App. 1984); ***Gill v. Shively***, 320 So. 2d 415 (Fla. Dist. Ct. App. 1975); ***Sloin v. Lavine***, 168 A. 849 (N.J. 1933).

The Donee cites ***Arnoult v. Griffin***, 490 S.W.2d 701 (Tenn. Ct. App. 1972), for the proposition that gifts are complete when delivered. This, of course, is true as a general rule, but it is, by definition, not true of conditional gifts. ***Arnoult*** did not involve a conditional gift, but there are a plethora of Tennessee cases recognizing the concept of a conditional gift. As recently as this past February, the Court of Appeals decided a case involving a factual dispute over "whether [a] gift . . . was a complete, unconditional *inter vivos* gift or whether it was a gift with a condition attached." ***Weston v. Community Baptist Church of Wilson County***, No. M2004-02688-COA-R3-CV, 2007 WL 394644, at *7 (Tenn. Ct. App. M.S., filed February 5, 2007) (church member's gift of money to church conditioned on church's continued existence). The concept of conditional gifts is also acknowledged in the following Tennessee cases: ***Tennessee Div. of the United Daughters of the Confederacy v. Vanderbilt Univ.***, 174 S.W.3d 98 (Tenn. Ct. App. 2005) (organization's gift of money to university for construction of dormitory conditioned on dormitory being named "Confederate Memorial Hall"); ***Albright v. Button***, 155 S.W.3d 110 (Tenn. Ct. App. 2004) (decedent's bequest of real property to his caretaker conditioned on her continued performance of care-taking duties); ***Smith v. Smith***, 650 S.W.2d 54 (Tenn. Ct. App. 1983) (father's gift of a car to his daughter purportedly conditioned on various criteria of good behavior; claim rejected on factual grounds but theory's legal validity acknowledged); ***Balling v. Manhattan Sav. Bank & Trust Co.***, 75 S.W. 1051 (Tenn. 1903) (man's gift of money to woman conditioned on his failure to return from travels); and various other cases.

There is no inconsistency between the general rules pertaining to *inter vivos* gifts and the special rules regarding conditional gifts. In fact, the latter set of rules flows naturally from the former. As stated in ***Arnoult***, Tennessee courts have long held that "in order to constitute a completed and irrevocable gift, inter vivos, there must be: (1) an intention on the part of the donor to make the gift, and (2) the intention must be accompanied by delivery." ***Id.*** at 710 (citing ***Dodson v. Matthews***, 117 S.W.2d 969 (Tenn. Ct. App. 1938)). The first prong of that test, intent, is precisely what is at issue here. "Whether or not a gift was unconditional is a question of intent." ***Weston***, 2007 WL 394644, at *7. ***Arnoult*** recognizes that "as to the issue of intent, it must be determined from all the circumstances." ***Id.*** at 710. If the donor does not intend to make a completed and irrevocable gift – if, instead, he intends to make a conditional gift – then a conditional gift it is.

The trial court in the instant case relied upon a "memorandum opinion"[3] of ours that apparently was cited to the trial court by counsel for the Donee. Such a case should *never* be cited

[3] ***Wilson v. Wilson***, No. M2004-02954-COA-R3-CV, 2005 WL 2217085 (Tenn. Ct. App. M.S., filed September 12, 2005).

to a court "in any unrelated case." This can be seen from a reading of the very clear language of Rule 10 of the Rules of the Court of Appeals:

> When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

See also ***Moore v. Moore***, No. E2005-02469-SC-R11-CV, 2007 WL 2481931, at *3 n.3 (Tenn., filed September 5, 2007). The "memorandum opinion" case cited to the trial court, and upon which that court relied, has no precedential value.

IV.

In summary, we hold that an engagement ring is given in contemplation of marriage, and, as such, is impliedly a conditional gift. If marriage, for whatever reason, does not ensue, ownership of the ring never vests in the donee and the donor is entitled to the return of the ring. We recognize that there are cases holding that a donee is entitled to retain an engagement ring when the donor is responsible for the failed engagement. *See, e.g.*, ***White v. Finch***, 209 A.2d 199, 201 (Conn. Cir. Ct. 1964) ("where an engagement is broken owing to the fault of the donor, he may not recover the ring"). We decline to follow these cases because we believe the rule adopted by us is more in keeping with the essence of what occurs, and what is contemplated, at the time of an engagement. If and when that which the parties contemplated — the marriage — does not occur, the engagement ring goes back to the one who gave it.

V.

The judgment of the trial court is reversed. Summary judgment is hereby awarded to the appellant Jason M. Crippen, and the appellee Catharyn Campbell is directed to return instanter the engagement ring to the appellant. Costs on appeal and at the trial court level are taxed against the appellee Catharyn Campbell. This case is remanded to the trial court for enforcement of the summary judgment for Jason M. Crippen and for collection of the trial court's costs, all as provided for by law.

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CHARLES D. SUSANO, JR., JUDGE